

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MICHAEL JOHNSON, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

COMODO GROUP, INC. and COMODO CA,
INC.,

Defendants.

:
: Civil Action No. 16-4469 (SDW-LDW)

:
: **STIPULATION OF DISMISSAL**
: **WITHOUT PREJUDICE AS**
: **TO DEFENDANTS COMODO CA, INC.**
: **AND COMODO CA LIMITED ONLY**

WHEREAS, on July 22, 2016, Plaintiff Michael Johnson (“Plaintiff”) filed a class action complaint against Comodo Group, Inc. (“CGI”), alleging violations of the Telephone Consumer Protection Act (“TCPA”), and seeking relief on behalf of himself and on behalf of those similarly situated. (Doc. No. 1).

WHEREAS, on February 20, 2018, and pursuant to Fed. R. Civ. P. 15(a)(2), Plaintiff filed his First Amended Complaint against CGI. (Doc. No. 50).

WHEREAS, on August 29, 2018, the Court granted Plaintiff’s Motion for Leave to file a Second Amended Complaint. (Doc. No. 73).

WHEREAS, the Second Amended Complaint joined Defendant Comodo CA, Inc., to the action and asserts claims, under the TCPA and on behalf of those similarly situated, against Comodo CA, Inc., and CGI. (Doc. No. 76).

WHEREAS, CGI answered the Second Amended Complaint on September 19, 2018. (Doc. No. 81).

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WHEREAS, on October 18, 2018, Plaintiff filed a Notice of Filing a Third Amended Complaint as of Right asserting the filing of a Third Amended Complaint as of right pursuant to Fed. R. Civ. P. 15(a)(1)(B) & (a)(2). (Doc. No. 90).

WHEREAS, the Third Amended Complaint seeks to join Comodo CA Limited to the action and asserts claims, under the TCPA and on behalf of those similarly situated, against Comodo CA Limited, Comodo CA, Inc., and CGI. (Doc. No. 76).

WHEREAS, on December 7, 2018, the Court ordered that to determine whether the Third Amended Complaint is properly the operative pleading, Johnson must file a motion for leave to file the Third Amended Complaint and no party need respond to the Second Amended Complaint or Third Amended Complaint pending the resolution of the motion. (Doc. No. 106).

WHEREAS, Plaintiff will not be filing a motion for leave to file the Third Amended Complaint and will be proceeding under the Second Amended Complaint against Defendant CGI only.

WHEREAS, Johnson, Comodo CA, Inc, and Comodo CA Limited have entered into a Tolling Agreement.

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff, Defendant Comodo CA, Inc., and Defendant Comodo CA Limited, by and through their respective undersigned counsel, as follows:

1. Plaintiff's claims against Defendants Comodo CA, Inc., and Comodo CA Limited only are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).
2. Plaintiff will not be proceeding under and hereby withdraws the Third Amended Complaint.

3. With regard to Plaintiff and Defendants Comodo CA, Inc. and Comodo CA Limited, each party is to bear its own costs and attorneys' fees.

4. All claims against Defendant Comodo Group, Inc., as asserted in the Second Amended Complaint remain open and pending.

*Attorneys for Plaintiff
Michael Johnson and the
Putative Class*

*Attorneys for Defendants Comodo CA,
Inc., and Comodo CA Limited*

By: /s/ Stephen Taylor

By: /s/ Jeffrey Greenbaum

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Dated: December 14, 2018

So Ordered

this 16th day of December 2018


Susan D. Wigenton, U.S.D.J.